

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

CA NO. 3:05-CV-02858-MJP

UNITED STATES OF AMERICA, ex rel.,)	
MICHAEL K. DRAKEFORD, M.D.,)	
)	
Plaintiff,)	
)	
)	ORDER
v.)	
)	
TUOMEY d/b/a TUOMEY HEALTHCARE)	
SYSTEM, INC.)	
)	
Defendant.)	

This matter is before the Court upon the motion of the United States Judgment on its Common Law Claims. The Court has carefully considered the arguments of counsel as well as the memoranda submitted. Accordingly based upon the evidence admitted at trial and the jury having returned its verdict on March 29, 2010, and having found that defendant Tuomey Healthcare System, Inc. ("Tuomey") violated the Stark Law, 42 U.S.C. § 1395nn, (Dkt. No. 504), and the record as a whole, I hereby make the following findings of fact:

1. Pursuant to the jury verdict, Tuomey violated the Stark Law.
2. Tuomey submitted claims in violation of the Stark Law, and for services rendered through June 30, 2009, the United States paid those claims in the amount of \$44,888,651.00.

I also hereby make the following conclusions of law:

1. Under the Stark Law, claims submitted in violation of that Statute and payments made by the government in response to such claims must be repaid to the government.
2. The Supreme Court of the United States has recognized that where the government pays out moneys under a circumstance that is unlawful or is improper that the government has the right to be reimbursed.

It is therefore **ORDERED**, that the United States is entitled to judgment in its favor upon Count IV (payment by mistake) and Count V (unjust enrichment) of the Second Amended Complaint (Dkt. No. 151) (collectively, the common law claims); and it is

FURTHER ORDERED, that defendant Tuomey shall make payment to the United States in the total amount of **\$44,888,651.00** plus accrued prejudgment interest in the amount of **\$4,040,133.92** through April 15, 2010, and **\$5,122.50** in additional prejudgment interest each day from April 15, 2010 through the date of this Order; and it is

FURTHER ORDERED, that post-judgment interest shall accrue upon the amounts owed by Tuomey to the United States as provided by 28 U.S.C. § 1961 until payment has been made in full to the United States.

If the United States prevails on the re-trial on the issue of violation of the False Claims Act, Tuomey shall receive credit on that judgment for any payments made in response to this Order.

There is no just reason to delay entry of a final judgment on the United States' Common Law Claims. Therefore, the Clerk shall enter a judgment against Tuomey on Counts IV and V of the Second Amended Complaint as provided in this Order. The False Claims Act allegations in

the Second Amended Complaint remain before this Court for re-trial, in accordance with a separate Order being entered in this case.

July 13, 2010
Columbia, South Carolina

s/MATTHEW J. PERRY, JR.
Senior United States District Judge